



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09:945,020	08/31/2001	Joe Huang	PV00- 103-US1	1649

24587 7590 11/24/2004

ALCATEL USA
INTELLECTUAL PROPERTY DEPARTMENT
3400 W. PLANO PARKWAY, MS LEGL2
PLANO, TX 75075

EXAMINER

LIN, KELVIN Y

ART UNIT PAPER NUMBER

2142

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/945,020

Applicant(s)

HUANG ET AL.

Examiner

Kelvin Lin

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Detailed Action

Claim Rejections - 35 USC § 101

1. Claims 1-37 rejected under 35 U.S.C. 101 because the claimed invention is not being supported by either a "specific, substantial and credible" asserted utility or a well established utility.
2. At claim 1, it listed several points of servers and clients and failed to mention the component of the hardware device medium that will be used for the experiment. Therefore, it is impossible for the specification to teach how to use the invention.

Claim Rejections - 35 USC § 112

3. Regarding claims 1-37, also rejected under 35 U.S.C. 112, first paragraph.
Specifically, since the claimed invention is not supported by either a "specific, substantial and credible" asserted utility or a well established utility for the reason set forth above, one skilled in the art clearly would not know how to use the claimed invention.
4. The above noted problems are not necessarily an exhaustive listing, but a meant to be exemplary of the types of errors present. It is incumbent upon an applicant to ensure that any amendment filed resolves all deficiencies and places the claims in compliance with 35 USC 112.
5. Claims 1-37 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101, and 112, first paragraph, set forth in this Office action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to application's disclosure.

- Cudak, et al., (Patent No. 6058106) Network Protocol Method, Access Point Device And Peripheral Devices For Providing For An Efficient Centrally Coordinated Peer-To-Peer Wireless Communications Network.
- Yano et al., (Patent No. 6701372) Data Communication Apparatus And Method.
- Shimoyama et al., (Patent No. 6643496) System, Method, and Apparatus For Adjusting Packet Transmission Rates Based On Dynamic Evaluation Of Network Characteristics.
- Kirschenbaum, (Patent No. 6442140) Method For Automatic Setup Of Missing RM Cell Count Parameter CRM In An ATM Traffic Management Descriptor.
- Jorgensen J., (Patent No. 6590885) IP-Flow Characterization In A Wireless Point To Multi-Point (PTMP) Transmission System.
- Rabenko et al., (Patent No. 6765931) Gateway With Voice.
- IEEE – Jacobs, S. et al., Real-time Dynamic Rate Shaping and Control for Internet Video Applications, Multimedia Signal Processing, 1997., IEEE First Workshop on, 23-25 June 1997, pp. 558-563.

- IEEE – Kim J. et al., TCP-friendly Internet Video Streaming Employing Variable Frame-rate Encoding and Interpolation. Circuits and Systems for Video Technology, IEEE Transactions on vol. 10, Issue: 7, Oct. 2000, pp. 1164-1177.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelvin Lin whose telephone number is 571-272-3898.

The examiner can normally be reached on Flexible 4/9/5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 571-272-3896. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

11/18/04
KYL


JACK B. HARVEY
SUPERVISORY PATENT EXAMINER